

# **FY2012-2013 EPA-HAWAII PESTICIDE CONSOLIDATED PERFORMANCE PARTNERSHIP GRANT**

## **ENFORCEMENT WORKPLAN**

### **I. INTRODUCTION**

The Hawaii Department of Agriculture (HDOA) is the lead state agency for the enforcement of the Hawaii Pesticides Law (Chapter 149A, Hawaii Revised Statutes) and the Hawaii Administrative Rules (Chapter 66, Title 4). The HDOA has the statutory authority to control the sale and use of pesticides through applicator certification, restricted use pesticide dealer licensing, applicator education and outreach, product registration and licensing, use and misuse surveillance, and the administration of enforcement actions. This project aligns with Goal 5 of EPA's Strategic Plan.

### **II. OBJECTIVES**

#### **A. Program Areas**

1. **Certification of applicators applying restricted use pesticides** by administering written examinations for all persons purchasing and applying restricted use pesticides.
2. **Licensing of dealers selling restricted use pesticides** by certifying pesticide dealer representatives through written examinations and annual issuance of permits to each outlet distributing or selling restricted use pesticides.
3. **Pesticide product licensing** of all pesticides prior to distribution and sale in Hawaii. All product labels are reviewed to ensure compliance with Federal registration and program initiative requirements.
4. **Special state registrations** including registration of pesticides on crops and/or pest problems unique to Hawaii, experimental use permits, and emergency exemptions under Section 18 of FIFRA.
5. **Import monitoring** of pesticides and devices from foreign destinations entering the United States through Hawaii for compliance with registration and labeling requirements.
6. **Agricultural use inspections** involving the use, storage, and disposal of pesticides in farming activities for compliance with pesticide label directions and program initiative requirements, including all provisions of the Worker Protection Standard.
7. **Non-Agricultural use inspections** of commercial pest control operators, wood treating facilities, hotels, hospitals, schools, rights-of-way applicators, and pest control in and around the home.
8. **Complaint investigations** generally related to suspected damage or contamination from pesticide use or misuse, or from odors as a result of pesticide applications. Complaint investigations, which include WPS tips and complaints, are given high priority.

9. **Market surveillance inspections** of pesticide wholesalers, distributors, and retailers to monitor compliance with Federal and State pesticide laws concerning product registration, labeling, and licensing. Both routine inspections and follow up to complaints of suspected violations are conducted. MSI investigations will focus on markets selling unregistered household products.
10. **Producer establishment inspections** of pesticide manufacturing, repackaging, and relabeling facilities registered with the EPA, including contract manufacturers, to assure compliance with product registration, labeling, and formulation prior to distribution into the channels of commerce.
11. **Restricted use pesticides dealer inspections** of licensed dealers to ensure sales records are being maintained as required by the Hawaii Administrative Rules, and restricted use pesticides are sold only to certified applicators.
12. **Certified applicator records inspection** of certified commercial applicators to insure use records of restricted use pesticides are being kept.
13. **Experimental use inspections** of applicators issued experimental use permits.
14. **Education** of applicators through field consultative visits, continuing educational classes for applicators, and the development of outreach material to inform the regulated clientele of changes and program initiatives.
15. **Chemical Analysis Laboratory** to provide timely and highly reliable pesticide analytical services in support of enforcement, registration and environmental monitoring programs to assure the safe use of pesticides in Hawaii and support to EPA Region IX Pacific Island outreach efforts.

## **B. Enforcement Strategy**

Inspections are conducted to assure compliance with label directions and to detect misuse. Complaints relating to pesticides are investigated as top priority actions for the program.

### **1. Neutral Inspection Scheme**

A neutral inspection scheme has been developed for conducting routine agricultural and non-agricultural inspections. The scheme lists commercial and private applicators and uses past history, volume of restricted pesticide use, and the number of certified applicators per company to select inspections. The program is revising its neutral administrative inspection scheme to include applicators, farms and professionals that do not have certified applicators.

Producer establishments actively producing (manufacturing, repackaging, or relabeling) pesticides are inspected annually while registered establishments on inactive status are inspected once every three years. These inspections will now include compliance with the

EPA's container and containment rules when that inspection guidance is developed. Inspection of restricted use pesticide dealers are conducted annually at every licensed dealer while market surveillance inspections are generally based on tips, complaints, & reports of expired product licenses.

## **2. Worker Protection Inspections**

EPA's Compliance-Enforcement Priority to protect under-served and vulnerable populations maintains emphasis on Tier I WPS use inspections and for cause inspections at agricultural establishments with previous violations of the WPS regulations as national priorities for FY 2008-2010. WPS "Tier I" inspections refer to inspections conducted during the pesticide application through 30 days after the expiration of the restricted entry interval (REI) and covers all applicable WPS inspection categories/elements, including conducting or attempting to conduct handler and/or worker interviews. WPS "Tier II" inspections are conducted beyond 30 days after the expiration of the REI) and covers all applicable WPS inspection categories/elements, including worker and/or handler interviews. Ideally, routine WPS use inspections should be conducted across the regulated community to assure coverage of all segments (farms, greenhouses, nurseries, forests and commercial applicator establishments. Inspections will be focused on establishments and situations having the highest likelihood of pesticide worker and handler risk (use acutely toxic pesticides during application, employ more handlers and/or workers than other farms, grow crops that are labor intensive, crops requiring a lot of hand labor during periods with potential for contact with treated foliage, stage of growth when high-risk pesticides are more likely to be applied, etc). For cause inspections are targeted at establishments that have had previous WPS violations or as the result of tips and complaints. Utilizing the restricted use pesticides sales records, farm size, number of workers and reports of non-compliance with WPS, a list for conducting worker protection compliance inspections within these categories is generated. Reports of RUP sales are reviewed to determine the amount and types of RUPs being purchased.

## **3. Producer Establishment Inspections**

EPA's priority to reduce chemical risks includes producer establishment inspections to ensure compliance with the product registration, formulation, packaging and labeling requirements. Unannounced inspections are to be conducted at registrants, producers, formulators, bulk-repackagers and contract manufacturers to ensure compliance.

## **4. Fumigation Posting and Re-entry**

Sulfuryl fluoride is the predominant chemical used in controlling drywood termites. Due to the toxicity of sulfuryl fluoride to humans, procedures detailing the proper aeration and structure clearance must be followed. Before occupants are allowed to re-enter a fumigated structure, fumigant concentrations must be 1 part per million (ppm) or less, measured by an approved detection device. Reducing the concentration of fumigant is accomplished by removing the tarp, opening all operable windows and doors for at least an hour, assisted by the use of one or more fans, and waiting at least 6 – 8 hours before remeasuring fumigant concentrations in breathing zones. Additional ventilation is required until sulfuryl fluoride

concentrations drop below 5 ppm. During the minimum 6 – 8 hour waiting period, all entrances to the fumigated areas must be posted with appropriate signs and all entrances must be secured to prevent re-entry into the structure. Devices such as “clam shell” locks and “split keys”, or other methods of preventing re-entry must be employed.

Unannounced, post-application inspections conducted have uncovered numerous cases of improper aeration practices, particularly insufficient waiting periods and/or structures unsecured or insufficiently secured during the waiting period. Many of these violators are repeat offenders, in spite of receiving notice of violations and being assessed civil penalties. To ensure public safety, post-application inspections will continue to be conducted and coordination between Pesticide Program inspectors and EPA Criminal Investigators need to be continued.

## **5. Soil Fumigants**

The amended registration eligibility decisions (REDs) for the soil fumigants chloropicrin, dazomet, metam sodium/potassium and methyl bromide call for measures to mitigate risks fumigant applicators, handlers and post-application workers, as well as bystanders. Following education and outreach efforts with RUP Dealers and fumigant users on the new RUP classification and requirements of the soil fumigants, use inspections will be conducted to ensure compliance with the label directions, including the establishment of fumigant management plans, risk mitigation for workers and buffer zones.

## **6. Chemical Analysis Laboratory**

The HDOA Pesticides Branch maintains a state-of-art pesticide residue laboratory with gas chromatography, gas chromatograph-mass spectrometry, and liquid chromatography-mass spectrometry for the analysis of a wide range of product, soil, plant and environmental samples in support of enforcement, pesticide registration and environmental monitoring program activities. The laboratory has updated analytical methods for compounds of importance to agriculture in Hawaii to facility timely analysis of samples and for the analysis of samples in a manner that minimizes the use of hazardous organic solvents. The laboratory participates in check sample programs for pesticides and proficiency testing for food toxins. The laboratory also serves as a resources laboratory to EPA Region IX as well as the Food Emergency Response Network (FERN) Laboratory for the Food and Drug Administration.

### III. WORK PROGRAM

#### A. Program Management

##### 1. Inspection Policy

- a. EPA Inspection Manual used.

Neutral inspection scheme.

- |    |  |                   |                   |
|----|--|-------------------|-------------------|
| 1) | Changes and/or updates to the scheme will be submitted to EPA.   | <u>02/01/2012</u> | <u>02/01/2013</u> |
| 2) | Producer establishments actively producing pesticides are inspected annually while establishments on “inactive” status are inspected once every three years. |                   |                   |

##### 2. Quality Assurance Program Plan (QAPrP)

- |    |   |   |  |
|----|---|---|--|
| a. | HDOA to submit revised QAPrP to EPA for review.                           | <u>12/31/2011</u>                       |  |
| b. | EPA to review and provide comments  | <u>6 months after receipt from HDOA</u> |  |
| c. | HDOA to resubmit revised QAPrP to EPA for review                          | <u>3 months after receipt from EPA</u>  |  |
| d. | Submit for review and approval additional SOPs for measurement activities | <u>as generated</u>                     | <u>as generated</u>                    |
| e. | EPA to review draft SOP and provide comments to HDOA for consideration    | <u>1 month after receipt from HDOA</u>  | <u>1 month after receipt from HDOA</u> |
| f. | HDOA to finalize SOP and submit to EPA for approval                       | <u>1 month after receipt from EPA</u>   | <u>1 month after receipt from EPA</u>  |

3. General Policies		<u>FY2012</u>	<u>FY2013</u>
1)	Update and supplement as required, policies which clarify rules and regulations.	<u>as required</u>	<u>as required</u>
2)	Participate in the pre-SFIREG meeting.	<u>May 2012</u>	<u>May 2013</u>
b.	Provide enforcement training to Pacific Island inspectors.	<u>to be determined</u>	
c.	Provide laboratory analytical services for samples collected.	<u>ongoing</u>	

#### **B. Inspector Training Program**

The HDOA provide in-house training of personnel during the annual Pesticides Program workshop, held in conjunction with annual medical monitoring examinations and respirator fit-testing. Staff to also participate in applicable training offered by other organizations as well as the EPA.		<u>November 2009</u>	<u>November 2010</u>
1.	Report HDOA inspector training program and course outline, and inspector training participation to EPA.	<u>10/20/2012</u>	<u>10/20/2013</u>
2.	Participate in EPA Inspector training programs.	<u>as offered</u>	
3.	Participate in Case Development training.	<u>as offered</u>	
4.	Provide assistance to personnel from the Pacific Islands.		
a.	Include Pacific Island inspectors in Pesticides Program workshop, medical monitoring examinations and respirator fit-testing.	<u>November 2011</u>	<u>November 2012</u>
b.	Provide enforcement training to Pacific Island inspectors.	<u>as requested or needed</u>	
c.	Provide laboratory analytical services for samples collected.	<u>ongoing</u>	

#### **C. Compliance Monitoring (Inspections)**

The HDOA will conduct comprehensive inspections. Inspections must be conducted in accordance with the procedures set forth in the updated EPA Pesticide Inspection Manual (or comparable state procedures).

This area contains actual inspection commitments for all national priorities, including:

Worker Protection Compliance / Enforcement Activities

- WPS Labeling Compliance
- Inspections at nurseries to determine the level of use of non-WPS products to avoid WPS requirements.

Producer Establishment Inspections (Including Seed Corn Producers)

- It should be noted that much of the information, including gene identification and traits may be confidential business Information (CBI).
- The State may not have the necessary analytical capability to identify genes. Coordination mechanisms are needed.

Special Activities

- Soil Fumigants
- Inspection of Antimicrobial Pesticides as a follow-up to efficacy reviews
- Container / Containment

State priorities

1. During FY2012-2013 conduct FIFRA inspections which should include the following types:	<u>FY2012</u>	<u>FY2013</u>
a. Total Agricultural Use Inspections, including Worker Protection and Soil Fumigation Inspections.	<u>105</u>	<u>105</u>
1) Tier I WPS Inspections	<u>15</u>	<u>15</u>
2) Tier II WPS Inspections	<u>9</u>	<u>9</u>
3) Water Quality Labeling Compliance Targeted Inspections	<u>7</u>	<u>7</u>
4) Soil Fumigation Inspections (after outreach)	<u>2</u>	<u>5</u>
	<u>FY2012</u>	<u>FY2013</u>

b.	Total Agricultural Use Samples	<u>7 minimum</u>	<u>7 minimum</u>
c.	Total Agricultural Follow-up Inspections, including: (High Level Episodes and Complaints, Worker Protection incidents and complaints)	<u>as required</u>	<u>as required</u>
d.	Total Agricultural Follow-up Samples	<u>as required</u>	<u>as required</u>
e.	Total Non-Agricultural Use Inspections	<u>72</u>	<u>72</u>
f.	Total Non-Agricultural Use Samples	<u>7 minimum</u>	<u>7 minimum</u>
g.	Total Non-Agricultural Follow-up Inspections, including: (High Level Episodes & Complaints)	<u>as required</u>	<u>as required</u>
h.	Total Non-Agricultural Follow-up Samples	<u>as required</u>	<u>as required</u>
i.	Experimental Use Inspections	<u>as required</u>	<u>as required</u>
j.	Imports	<u>10</u>	<u>10</u>
k.	Import Documentary Samples	<u>4</u>	<u>4</u>
l.	Certified Applicator Records	<u>36</u>	<u>36</u>
m.	Restricted Use Pesticide Dealers, including compliance with Section 6(g) and recalls.	<u>14</u>	<u>14</u>
n.	MSI Inspections	<u>22</u>	<u>22</u>
o.	MSI Documentary Samples	<u>5</u>	<u>15</u>
p.	Followup for antimicrobial products	<u>as requested by EPA</u>	<u>as requested by EPA</u>
q.	Total Producer Establishment Inspections	<u>7</u>	<u>7</u>
r.	PEI Documentary Samples	<u>4</u>	<u>4</u>
s.	Export Inspections	<u>as needed</u>	<u>as needed</u>



	<u>FY2012</u>	<u>FY2013</u>
t. EPA will provide specific facilities where export inspections will be conducted.	<u>when received from HQ</u>	
u. Federal Facilities Inspections	<u>3</u>	<u>3</u>
v. Emergency Exemptions provisions on use sale and distribution.	<u>as issued or granted</u>	
2. EPA will provide the HDOA with a list of current registered establishments and their company headquarters address.	<u>10/31/2011</u>	<u>10/31/2012</u>
3. EPA will provide the HDOA with a list of Canceled Products and Producing Establishment	<u>10/31/2011</u>	<u>10/31/2012</u>
4. EPA will provide quantities of and locations where pesticide products are stored as a result of suspension actions under Section 6(g).	<u>as received from the results of an EPA action</u>	

#### **D. Enforcement**

1. During FY2012-2013 the HDOA will take enforcement actions as appropriate. All Federal violations requiring EPA action will be submitted to the Regional Office.	<u>within 30 days after the inspection is completed.</u>	
2. EPA will send to the HDOA copies of all enforcement actions issued by EPA within 10 days of execution.	<u>as issued</u>	<u>as issued</u>
3. EPA will provide status reports of inspections referred to the Regional Office for enforcement and resulting actions to the HDOA. Summary reports will be prepared and sent.	<u>monthly</u>	<u>monthly</u>
4. Worker Protection Inspections Submit to EPA completed WPS investigation jackets (PDF files).	<u>upon request by EPA</u>	

FY2012

FY2013

5. Submit to EPA investigation jackets 10/20/2012 10/20/2013  
documenting WPS violations detected during  
compliance monitoring.

6. Submit to EPA all inspection conducted using within 30 days after the inspection is  
Federal credentials completed.

7. Enforcement Response Policy

Upon completion of an investigation (including sample analysis) the HDOA will initiate enforcement actions in accordance with the Matrix of Enforcement Actions and Minimum State Actions, as follows:

- a. Minor actions (warning letters, notices, etc.) will be initiated within 30 days.
- b. Major actions (civil complaints, formal hearings, license revocations, etc.) will be initiated within 60 days.

EPA recognizes that some cases will by their inherent nature require more time. Upon request, EPA may grant extensions for valid reasons.

8. Case Development

The State will prepare cases and take enforcement actions according to Case Preparation and Enforcement Procedures.

The State shall review the quality and adequacy of evidence gathered in the course of all investigatory activities performed under the cooperative agreement. If an investigation reveals a violation of Federal or State law, the following enforcement conditions are applicable:

- a. State Cases. The State must review the quality and sufficiency of evidence gathered in the course of all investigative activities performed under the cooperative agreement. If the evidence reveals a violation of only the State's pesticide laws, the State shall pursue an appropriate remedy provided by State law.
- b. State and Federal Cases. If evidence reveals a violation of both State and Federal law, the State may bring appropriate enforcement action under State law or refer the case to EPA for action under FIFRA. In the event that the case is referred to EPA for action, the Agency case preparation officer should review the case file to ensure the State's inspection procedures adhere to basic constitutional guarantees. If the evidence gathered was legally obtained and is within the scope of admissible evidence, EPA should proceed with the case. High Level Episodes, specifically allegations of pesticide misuse, and incidents resulting in human health or environmental hazards, as specified in the FIFRA 26/27 Implementation Plan, will be tracked by EPA after referral to the State. The State must commence appropriate enforcement action for cases so tracked

within 30 days after completion of the investigation. This period may be extended after negotiation is required by the procedural characteristics of the State's regulatory structure, or the complexity of the case.

If the Region determines that the State's intended enforcement response to the violation is inappropriate, EPA will first attempt to negotiate an appropriate State enforcement response. If a State is unwilling or unable to alter its original enforcement response, EPA may bring its own action after notice to the State. That notice will summarize the facts relating to the State's enforcement response, discuss reasons for EPA's determination that the enforcement action is inadequate and state the EPA will initiate its own enforcement action sooner than thirty (30) days after the matter is referred to the State.

For all cases, if a State feels that the most appropriate enforcement action is not available under State law it may refer the case to EPA for enforcement action. Other cases to be referred to EPA are as follows:

- 1) The case involves federal non-registration, non-compliance with a Stop Sale, Cancellation or Suspension Order; or
  - 2) The case involves a high level episodes; or
  - 3) The case involves a violation of State and Federal law and the State does not take enforcement action; or
  - 4) The responsible party's primary place of business is in another state; or
  - 5) EPA requests the evidence.
- c. Federal Cases. Where evidence reveals a possible violation of Federal law only, the State shall immediately forward the information to EPA.
- d. Worker Protection. WPS inspections and enforcement actions as a result of a WPS inspection shall be reported on EPA WPS Form 5700-33H, Pesticide Worker Protection Standard Inspection and Enforcement Accomplishment Report. A brief narrative description of each noteworthy civil or criminal penalty enforcement action shall also be reported.
- e. Endangered Species. In those cases in which a pesticide misuse either poses or results in a real or potential threat to a recognized endangered species, the State will advise the U.S. Fish & Wildlife Service of the pertinent facts related to the investigation and refer the case to the Agency if requested. Additionally, since endangered species violations are a result of misuse, the State, through its primacy or its cooperative agreement has the option of 1) initiating its own enforcement action and should advise EPA accordingly, or 2) referring the case to EPA for enforcement follow-up.

In all cases forwarded to EPA, the evidence, a brief narrative of the case and a recommended enforcement response shall be included.

When EPA and /or the State determine(s) that EPA will be party to an enforcement action, the case file shall be made available to the EPA. The EPA will cooperate with the State in development and prosecution of such enforcement actions.

The State shall prepare and make available to EPA testimony and other evidence pursuant to the procedures adopted by EPA. The State shall provide witnesses for informal settlement conferences, public hearings, and appearances in a court of law as the EPA requests.

In determining enforcement penalties and/or negotiating settlement agreements, States are encouraged to consider potential pollution prevention activities which a violator could undertake in exchange for an appropriate reduction in the enforcement penalty. States are also encouraged to consider the inclusion of single or cross-media pollution prevention conditions, as either the means of correcting the violation or as additional conditions incidental to injunctive relief. Such conditions are appropriate when they discourage recurring or future violations, have no negative cross-media impacts, and are technologically and economically feasible.

9. Imports

- a. Provide to EPA copies of all Notice of Arrival of Pesticides and Devices (EPA Form 3540-1) submitted to the HDOA by an importer or his agent for shipments entering the United States through Hawaii.
- b. Submit copies of inspection jackets to the EPA as PDF documents. Hardcopies to be provided upon request.

**E. Contaminant Screening Program**

The laboratory will establish and maintain a screening program to detect cross-contaminants in officially collected pesticide formulation samples.

**F. High Level Episodes/Priority Investigations/Section 27 Referrals**

All incidents relating or alleged to be related to pesticides meeting or exceeding the criteria specified in High Level Episodes and Complaints (Appendix A), shall be reported to EPA within 24 hours from the time the incident came to the HDOA's attention. All high level episodes and any allegation or complaint of pesticide misuse reported to the EPA will be referred to the HDOA for investigation and appropriate enforcement action. The EPA will log and track the events during the evaluation of this Cooperative Agreement. Any high level episode identified by the HDOA is automatically considered a Section 27(a) referral.

The HDOA will initiate an investigation within 2 days after receipt of the information or within an agreed upon timeframe. The HDOA will keep the Regional Office informed of any new

information or significant change in status of the case as soon as this change comes to the HDOA's attention.

Procedures to be followed for tracking referrals are included in FIFRA 26/27 Implementation Plan.

## **G. Tracking**

The HDOA will build databases for a management system that tracks all inspections, violations found, and enforcement actions initiated. The tracking system will be modified to include the following elements:

- Date of inspection
- Reason for inspection
- Name of persons or firm inspected
- Geographic location
- Application site type
- Type of inspection / Case qualifier
- Violations found
- EPA Registration Number or active ingredient if not registered
- Method of application
- Summary of past compliance history
- Enforcement actions taken
- Date of enforcement actions
- Disposition of action

EPA will identify and notify HDOA contacts of inspections to be conducted as a result of major regulatory actions that need special tracking.

## H. Outcome and Efficiency Measures

Outcome and efficiency measures, one method used to gauge the success of compliance assistance activities, are quantitative or qualitative measures of changes in behavior of the public or regulated entities caused, at least in part, by actions of government. These measures include changes in awareness and understanding, changes in behavior, and environmental and human health improvements.

1. Repeat Violator Measure is the percent of recipients of regulated entities receiving enforcement actions in the current fiscal year Federal (October 1 – September 30) that also received enforcement actions during the current and/or the previous two fiscal years. Its purpose is to quantify the deterrent effect of enforcement actions on the subsequent behavior of violators.

### # Regulated Entities Receiving Prior Enforcement Actions

#### Regulated Entities Receiving Enforcement Actions in the Current Reporting Year

2. Complying Actions Measure is the percent of enforcement actions that have been verified to have resulted in corrective action of the violations that were the subject of enforcement actions. It is used to quantify the impact of enforcement and compliance monitoring on obtaining compliance with pesticide laws.

### # Enforcement Actions Resulting in Verified Compliance

#### Total Number of Enforcement Actions

3. Efficiency Measure is the cost of conducting inspections that identify violations, an effort to quantify the efficiency of the inspection program to conduct or target inspections that identify violations.

### EPA Pesticide Enforcement Grant Funding + HDOA Pesticide Enforcement Funding

#### Total Number of Enforcement Actions

Data used to calculate efficiency measures will be submitted on the Pesticide Enforcement Outcome Measure Reporting Form.

## I. Procurement Under Assistance Agreements

	<u>FY2012</u>	<u>FY2013</u>
1. Update information on vendors' MBE/WBE status.	<u>as new vendors are utilized</u>	
2. Complete and submit the MBE/WBE Utilization Report (EPA Form No. 5700-52A) to EPA.	<u>10/30/2012</u>	<u>10/30/2013</u>

## J. Evaluations

EPA will evaluate the activities conducted by the HDOA under the cooperative agreements each year.

Program evaluations and reports due from EPA.	<u>FY2012</u>	<u>FY2013</u>
1. End-of-Year review will be conducted by EPA.	<u>November 2012</u>	<u>November 2013</u>
2. Draft written report will be sent to the State.	<u>January 2013</u>	<u>January 2014</u>

## K. Reporting Requirements

Reporting on the status of activities under the cooperative agreement is required quarterly, due within 30 days after the close of the reporting period. To facilitate complete reporting a summary of the items to be reported is provided.

Program evaluations and reports due from EPA.	<u>FY2012</u>	<u>FY2013</u>
1. Pesticides Enforcement Cooperative Agreement Accomplishment Report (Inspections and Enforcement actions), reported on EPA Form 5700-33H.	<u>01/31/2012</u> <u>04/30/2012</u> <u>07/31/2012</u> <u>10/30/2012</u>	<u>01/31/2013</u> <u>04/30/2013</u> <u>07/31/2013</u> <u>10/30/2013</u>
2. Narrative on accomplishments and significant enforcement actions.	<u>01/31/2012</u> <u>04/30/2012</u> <u>07/31/2012</u> <u>10/30/2012</u>	<u>01/31/2012</u> <u>04/30/2012</u> <u>07/31/2012</u> <u>10/30/2012</u>
3. All inspections conducted using EPA-issued Federal credentials will be sent to EPA as PDF documents. Hardcopies will be provided upon request.	<u>10/20/2012</u>	<u>10/20/2013</u>
4. Pesticide Enforcement Outcome Measure (Program Assessment Rating Tool (PART) Reporting Form.	<u>12/31/2012</u>	<u>12/31/2013</u>

	<u>FY2012</u>	<u>FY2013</u>
5. Narrative status of program activities which have been funded, including:	<u>10/20/2012</u>	<u>10/20/2013</u>
<ul style="list-style-type: none"> <li>- Comparison of schedules vs. actual accomplishments.</li> <li>- Tangible outputs completed</li> <li>- Discussion of problems and proposed resolutions.</li> <li>- Discussion of any changes in commitments agreed to between the applicant and the Regional Office and any effect these changes has on the applicant reaching the level of attainment.</li> <li>- National program to detect applications of agricultural pesticides in urban and other residential settings.</li> <li>- Summary of violations found related to WPS and any resulting enforcement action.</li> <li>- Information on any enforcement cases involving documented WPS violations where workers/handlers were injured or hospitalized.</li> </ul>		



**PESTICIDES IN WATER PROGRAM WORKPLAN**

**I. INTRODUCTION**

The Hawaii Department of Agriculture (HDOA) is the lead state agency for the enforcement of the Hawaii Pesticides Law (Chapter 149A, Hawaii Revised Statutes) and the Hawaii Administrative Rules (Chapter 66, Title 4). The HDOA has the statutory authority to control the sale and use of pesticides through applicator certification, applicator education and outreach, product registration and licensing, use and misuse surveillance, and the administration of enforcement actions.

Chapter 149A-32.5 (1), HRS provides explicit authority that a determination as to whether unreasonable adverse effects exist shall be made when residues of a pesticide is detected in drinking water. Chapter 149A-14(a)(4), HRS, states that the department may refuse to license a pesticide when it has been determined that the proposed use would result in an unreasonable adverse effect to the environment. The goals for the Pesticides in Water Program include the following:

- To evaluate the “Pesticides of Interest”;
  - Take actions to reduce or prevent contamination from “Pesticides of Concern”, including:
- Reclassify pesticide products as restricted use pesticides (RUPs) when the pesticide or pesticide uses can reasonably be expected to result in the contamination of groundwater;
- Track the use of RUPs and pesticides requiring annual use permits through sales records and the location of farming operations based on Global Positioning System (GPS) readings;
- Determine risks to drinking water sources through a drinking water monitoring program; and
- Maintain a database of labels with groundwater advisories.
- Demonstrate progress of the management strategy to reduce or maintain concentrations of pesticides of concern, including:
  - Continue participation in the State of Hawaii Geographic Information System (GIS) coordination;
  - Develop a database for label improvements relating to groundwater; and
  - Continued tracking of RUPs and Tax Map Keys (TMK) to plan and develop an inspection scheme for vulnerable areas.

The Hawaii Department of Health (HDOH) is the lead agency for water quality protection in the State of Hawaii, and responsible for the conceptualization, development, and implementation of the Water Quality Plan. The HDOH is responsible for enforcing the State Primary and Secondary Drinking Water Regulations to protect public water systems in the State and regulates the monitoring of maximum contamination levels under Hawaii Revised Statutes (HRS) 340-E and the Federal Safe Drinking Water Act (SDWA). The Clean Water Branch (CWB), responsible for protecting Hawaii’s coastal and inland water resources, accomplishes statewide coastal water surveillance and watershed-based environmental management through a combination of permit issuance, monitoring, enforcement, sponsorship of polluted runoff control projects, and public education. The CWB also administers the National Pollutant Discharge Elimination System (NPDES). The Safe Drinking Water Branch (SDWB) is responsible for safeguarding public health by protecting Hawaii’s drinking water sources (surface water and groundwater) from contamination through a combination of engineering review, enforcement and assuring that owners and operators of public water systems provide safe drinking water to the community and monitoring. The Environmental Planning Office’s Water Quality Management Program provides technical assistance with the State of Hawaii’s water quality standards for inland and marine surface waters and monitors and assesses the biological, chemical and physical integrity of the State’s surface waters.

## **II. OBJECTIVES**

To initiate regulatory actions such as use restrictions, cancellation or registration denial if it is determined that unreasonable risks are or will result from a pesticide's use and to develop a program to identify pesticides which could potentially leach, and to continue cooperation and communication between the Pesticides Program and the HDOH.

A three-tiered approach will be used to measure the performance in identifying pesticides of concern by evaluating a list of pesticides of interest that may have the potential to threaten water quality, taking actions to manage pesticides of concern and examining trend data to demonstrate improvement in water quality.

### **A. Evaluation**

#### **1. New Product Review**

License requests for outdoor use products containing a new chemical (first year product licensed in Hawaii) must be accompanied by environmental fate data. In addition, review of these products will involve a scoring process which will consider EPA registration status, analysis of chemical properties, total acreage expected to be treated, and whether the product is applied directly to the soil or if the pesticide is systemic and acts by moving throughout the plant, including the roots. Depending on the review score, the product may either be licensed, or subjected to further review and comment to determine if the license request/product should: 1) be denied; 2) be classified as a restricted use pesticide (RUP); 3) be licensed under the provisions of an annual use permit; 4) require environmental monitoring; or 5) be licensed without restrictions.

#### **2. New Pesticides With The Potential to Leach to Ground Water**

The Pesticides Program evaluates new pesticides to determine whether or not adverse effects will result from its use, including the potential to contaminate sources of drinking water. Risk of the potential to contaminate drinking water sources is assessed by a preliminary review which considers: 1) chemodynamic properties of the pesticide; 2) acreage of potential use; 3) type of use (foliar, soil, dip, indoor, etc.); and 4) modeling based on soil chemistry and pesticide chemistry.

Some of the new pesticide chemistries are considered by the EPA to be safer than older pesticides. However, when these newer pesticides present a risk of contaminating drinking water sources, the product, after a determination of unreasonable adverse effects is made, would be classified as a RUP to restrict use of the product to knowledgeable applicators and to track its use. Chemical manufacturers and registrants have refused to license these reclassified "safer" pesticides due to the stigma associated with a RUP, thereby leaving Hawaii's farmers without the option of using these "safer" pesticides.

An alternative to the RUP reclassification is to license the product as a non-RUP for use under the provisions of an annual use permit which would allow tracking of its use. However, rule revisions are needed to clarify product distribution and recordkeeping requirements so that they are enforceable.

### 3. Pesticides of Interest

The Pesticides Program will evaluate the 58 pesticides of interest identified by the 2005 SFIREG survey of states, to determine whether a human health or environmental reference point is likely to be approached or exceeded in localized areas of Hawaii. The evaluation will generally be based on available monitoring data for Hawaii from the HDOH, but can also be based on information from other states with comparable conditions. If it determined that the reference point is likely to be approached or exceeded, the pesticide may be designated a "Pesticide of Concern" and will be required to be managed to prevent or reduce contamination.

## B. Management

### 1. Product Reclassification

The State of Hawaii identifies pesticides for restricted-use classification, generally including acutely toxic pesticides, persistent pesticides with chronic toxicity concerns, and herbicides with the potential to cause damage from drift off-target. Other pesticides that are candidates for restricted use classification include pesticides in toxicity categories I and II; pesticides or pesticide uses which are determined to be a health hazard for one or more reasons, including but not limited to toxicity, body storage, oncogenicity, mutagenicity, and teratogenicity or other reproductive effects; and pesticides or pesticide uses which can be reasonably anticipated to result in significant reductions in non-target organisms or fatality to members of endangered species.

The Administrative Rules expanded the criteria for reclassification to include pesticides or pesticide uses which can reasonably be anticipated to result in contamination of ground water. Physical properties information used by the Pesticides Program are: persistence (half-life); and mobility (solubility in water, potential for the chemical to be adsorbed to the soil, and the potential for the chemical to evaporate or volatilize from the soil). Use patterns identified with the potential to contaminate ground water include pesticides applied directly to the soil and those which move throughout plant tissue, including roots, and are released into the environment. Environmental fate data for pesticides containing chlorantraniliprole have been reviewed and it has been determined that this chemical is likely to leach. The Pesticides Program is evaluating options on whether to reclassify this chemical as a RUP or to license the product under the provisions of an annual use permit.

### 2. Use Restrictions

The Pesticides Program has the ability to track the sales of restricted use pesticides through the RUP sales records and the location of farming operations based on TMK information. Linking this information with other data sources will provide the Department with the ability to determine where RUPs are being applied and be available as a tool if products are further restricted based on applications sites. The amended Administrative Rules enables the HDOA to designate a pesticide

as requiring an annual use permit for purchase if the HDOA determines that existing controls over the pesticide are inadequate to prevent unreasonable adverse effects to humans or the environment. The rules now require an annual use permit for the purchase and use of herbicides containing picloram and additional pesticides may be designated as requiring an annual use permit. In determining whether or not to issue an annual use permit. In determining whether or not to issue an annual use permit, the potential use will be reviewed for compliance with the pesticide's label directions, the quantity of pesticide to be permitted, and other permit conditions necessary to prevent unreasonable adverse effects to humans and the environment.

### 3. Outreach

Educational and outreach efforts with pesticide applicators that focus on practices that minimize the potential for pesticides to enter water, implementing locally-specific practices to protect water quality in vulnerable water resource areas and promoting best management practices to prevent or reduce contamination.

### 4. Water Quality Labeling Compliance

Compliance with, and enforcement of non-compliance with water quality protection labeling requirements will be monitored as part of routine inspections. An inspection scheme will be used targeting inspections in areas of high risk for contamination of ground and surface water from pesticides, along with how these areas overlap with locations of pesticide use. Water quality label language may include provisions such as buffer zones, soil type prohibitions, well head and surface water protection zones and chemigation system requirements.

## III. WORK PROGRAM

### A. New Product Review

	<b><u>FY2012</u></b>	<b><u>FY2013</u></b>
1. Utilize New Product Review Sheet.	ongoing	ongoing
2. University of Hawaii review.	<u>If criteria based on B.1. met.</u>	<u>If criteria based on B.1. met.</u>
3. Licensing applications withdrawn or chemicals classified as "restricted" or requirement for an annual use permit due to water quality concerns.	ongoing	ongoing
4. Maintain a database of labels with ground water advisories.	<u>as applicators are certified</u>	<u>as applicators are certified</u>
5. Develop and implement a ground water monitoring program for pesticides of concern.	<u>ongoing</u>	<u>ongoing</u>

## B. Tracking Restricted Use Pesticides Sales

- |   | <u>FY2012</u>  | <u>FY2013</u>  |
|---|----------------|----------------|
| 1. Review applications of certified private applicators to validate and verify Tax Map Key information. | <u>ongoing</u> | <u>ongoing</u> |
| 2. Review sales records of dealers selling restricted use pesticides to certified private applicators.  | <u>ongoing</u> | <u>ongoing</u> |

## C. Geographic Information System Capability

- |  |                    |                    |
|--|--------------------|--------------------|
| 1. GIS training  | <u>as upgraded</u> | <u>as upgraded</u> |
| 2. Attend the State GIS Users' meeting.  | <u>semi-annual</u> | <u>semi-annual</u> |
| 3. Copy layers from the Department of Business, Economic Development & Tourism server to HDOA's GIS. | <u>ongoing</u>     | <u>ongoing</u>     |

## D. Evaluate Pesticides of Interest

- |  |                    |                    |
|--|--------------------|--------------------|
| 1. Review pesticides from the list of 58 pesticides of interest.   | <u>ongoing</u>     | <u>ongoing</u>     |
| 2. Implement preventative activities to reduce contamination of water for pesticides determined to be a " <i>Pesticide of Concern</i> ". | <u>as elevated</u> | <u>as elevated</u> |

## E. Procurement Under Assistance Agreements

- |  |   |   |
|--|---|---|
| 1. Update information on program expenditures based on the State of Hawaii's Financial Accounting & Management Information System (FAMIS). | <u>monthly, as reports are received</u> | <u>monthly, as reports are received</u> |
| 2. Update information on vendors' Minority Business Enterprise / Women's Business Enterprise (MBE/WBE) status.                             | <u>as new vendors are utilized</u>      | <u>as new vendors are utilized</u>      |
| 3. Complete and submit the MBE/WBE Utilization Report (5700-52A) to EPA.   | 10/31/2012                              | 10/31/2013                              |

## F. Report

- |   |                   |                   |
|---|-------------------|-------------------|
| The State will utilize the Pesticides of Interest Tracking System (POINTS) complete and submit the State/Tribal Reporting Form for the Pesticide Water Quality Program. | <u>12/31/2012</u> | <u>12/31/2013</u> |
|---|-------------------|-------------------|

**ENDANGERED SPECIES PROTECTION WORKPLAN**

**I. INTRODUCTION**

The Hawaii Department of Agriculture (HDOA) is the lead state agency for the enforcement of the Hawaii Pesticides Law (Chapter 149A, Hawaii Revised Statutes) and the Hawaii Administrative Rules (Chapter 66, Title 4). The HDOA has the statutory authority to control the sale and use of pesticides through applicator certification, applicator education and outreach, product registration and licensing, use and misuse surveillance, and the administration of enforcement actions.

Under the Hawaii Pesticides/Endangered Species Protection Program, the HDOA has overall responsibility for:

- Developing and administering the plan.
- The day-to-day program development and implementation activities.
- Coordinating regularly with federal and state agencies, and various interest groups.
- Conducting outreach efforts to the regulated community and others affected by the plan.

**II. OBJECTIVES**

Education and outreach is the main focus of efforts of the Education Specialists of the Pesticides Program with regard to the Endangered Species Protection Program (ESPP). Activities such as distribution of educational materials, presentations, and consultative visits will be performed to increase the public knowledge of this program. Activities such as workshops will be performed to inform pesticide users and pesticide inspectors of the ESPP.

**A. Program Areas**

1. **Conduct on-site verification** inspection to consult with pesticide users (farmers, golf courses, etc.).
2. **Collect inspection-related information** to assist in maintenance of Endangered Species Protection Bulletins. Information collected from inspections will also be used to help determine effectiveness of communication, outreach, and educational activities for pesticide users.
3. **Consultative services to pesticide applicators** (certified and non-certified). These "non-enforcement" on-site visits are provided to assist users in identifying pest control practices that do not affect endangered species.
4. **Outreach efforts through presentations, distribution of materials, exhibits.** Educational Specialists will perform these outreach efforts to inform pesticide users, pesticide inspectors, and the public about the Endangered Species Protection Program, how you can reduce risks to endangered species, and how to access the Endangered Species Protection Bulletins.
5. **Development of informational materials** to be used in study material, examinations, consultative visits, outreach, and compliance assistance activities. Informative materials will be developed for direct mailing to all certified applicators.

6. **Inform and train staff** for implementation, compliance assistance, and enforcement through memoranda, meetings, and during the annual Pesticides Program workshop. These sessions will also include information regarding the goals of the Endangered Species Protection Program, Endangered Species Protection Bulletins, how to read the Bulletins, and how to use resources such as BulletinsLive! to access historical and current bulletins.
7. **Continuing education training to applicators, both certified and non-certified**, which cover a variety of pesticide related topics, including endangered species protection. Most of these training sessions provide certified applicators with continuing education credits which may be used towards “recertification”. Maintenance of certification credits for each hour of applicable training are given for classes which have been reviewed and approved in advance by Educational Specialists. Program personnel also participate in continuing education programs offered by other organizations. Training will also include goals of the Endangered Species Protection Program, changes to label statement requirements by the EPA, how to use Endangered Species Protection Bulletins, where to find Bulletins, and how to use resources such as BulletinsLive!
8. **Certification of applicators** to assure competency of individuals applying restricted use pesticides. Educational Specialists of the Pesticides Program administer and grade examinations and periodically review examinations for revisions.
9. **Review of existing and draft Bulletins** to assist in production of most accurate and up-to-date Endangered Species Protection Bulletins.
10. **Endangered Species Inspection Reporting.** Information including compliance and non-compliance areas, numbers of use and for cause inspections where product was labeled requiring additional pesticide use limitations and reference to Endangered Species Bulletins, and number of use and for cause inspections where violation of Endangered Species labeling requirements were violated will be collected, summarized, and reported to the EPA.
11. **Collection of data** to provide to the Office of Pesticides Programs for use in risk assessments.
12. **Registration and Licensing Coordinator.** All special local needs registration applications and emergency exemption requests are provided to the Department of Land and Natural Resources, Office of Forestry & Wildlife for review and comment. The U.S. Fish & Wildlife Service may be consulted if necessary.

### III. WORK PROGRAM

#### A. Program Management

1. Bulletin Development  
 Provide data to OPP for use in listed species-specific risk assessments & review draft bulletins affecting Hawaii.

#### B. Training Program

- |   |                               |                               |
|---|-------------------------------|-------------------------------|
| 1. The HDOA provide in-house training of personnel during the annual Pesticides Program workshop. Staff also participates in applicable training offered by other organizations as well as the EPA. | <u>1<sup>st</sup> Quarter</u> | <u>1<sup>st</sup> Quarter</u> |
| 2. Participate in EPA sponsored training programs.  | <u>as offered</u>             | <u>as offered</u>             |
| 3. Develop informational materials to educate personnel about ESPP, including label statements, bulletins, goals of program, etc.   | <u>as required</u>            | <u>as required</u>            |

#### C. Outreach

- |   |  |                    |
|---|--|--------------------|
| 1. Production of material for distribution, presentations, or for exhibits/displays.  | <u>as required</u>                                   | <u>as required</u> |
| 2. Consultative visits at operations affected by the bulletin to assist and to evaluate efforts.  | <u>Within 30 days after final bulletin approved.</u> |                    |
| 3. Presentations to the regulated community.  | <u>During regularly scheduled classes.</u>           |                    |
| 4. As the designated non-Federal representative for informal consultation, will consult with the Fish & Wildlife Services on Section 18 and Section 24(c) registrations requiring consultation.   | <u>ongoing</u>                                       | <u>ongoing</u>     |
| 5. Keep pesticide users, program personnel and the public informed of fact sheets, bulletins, reading and understanding bulletins, accessing historic bulletins, and updates on development of the Federal program as they become available from the EPA. | <u>ongoing</u>                                       | <u>ongoing</u>     |
| 6. Articles for "The Pesticide Label."  | <u>biannually</u>                                    | <u>biannually</u>  |



#### D. Enforcement

**FY2012**

**FY2013**

1. Production of material for distribution, presentations, or for exhibits/displays.

After publication of Bulletins applicable to specific counties and specified product labeling enter the marketplace.

#### E. Procurement Under Assistance Agreements

1. Update information on program expenditures based on the State of Hawaii's Financial Accounting & Management Information System (FAMIS).

Monthly, as reports are received

2. Update information on vendors' MBE/WBE status

as new vendors are utilized

3. Complete and submit the MBE/WBE Utilization Report (EPA Form 5700-52A) to EPA.

10/31/2012

10/31/2013

#### F. Reports

1. Status of workplan items due in the quarter, including any items moved from the previous period.
2. Reason(s) why dates were missed and proposed new dates for completion.
3. Any schedule changes needed to the workplan.
4. Any newly identified organizations that will facilitate distribution of information.
5. Enforcement related activities that have occurred during the period.
6. Any incidents that have occurred during the period and the status of investigations.
7. Briefly describe any other related activities, if any.
8. Summarize collected data from inspections regarding compliance and non-compliance areas.

**WORKER SAFETY PROGRAM WORKPLAN**

**I. INTRODUCTION**

The Hawaii Department of Agriculture (HDOA) is the lead state agency for the enforcement of the Hawaii Pesticides Law (Chapter 149A, Hawaii Revised Statutes) and the Hawaii Administrative Rules (Chapter 66, Title 4). The HDOA has the statutory authority to control the sale and use of pesticides through applicator certification, applicator education and outreach, product registration and licensing, use and misuse surveillance, and the administration of enforcement actions.

Under the State Implementation Plan for Worker Protection, the HDOA has overall responsibility for:

- The development of the state implementation plan.
- The conducting outreach efforts to the regulated community and others affected by the Standard.
- The establishment of policies and guidelines.
- The enforcement of the Standard.

**II. OBJECTIVES**

**A. Program Areas**

1. **Outreach and Education to all affected parties in the regulated/protected community.** Efforts will continue to focus on industry specific activities, focused on the agricultural employers and providing information through newsletters and coordination with agricultural retailers. Outreach will continue to develop information in common languages of agricultural laborers and providing materials and translation services to communicate with these laborers. Additionally, outreach will be provided to establishments affected by the new soil fumigant labeling requirements and also to rural health care providers and other organizations that may provide health services to pesticide workers and handlers.
2. **Program maintenance and support.** Work will continue with the Hawaii Farm Bureau Federation, Crop Care Hawaii, and the Cooperative Extension Service to identify commodity and demographic groups that are at greater risk or have insufficient contact with the resources and services. Meetings will be continued to assess where the community needs and plan activities to address those needs. Education staff will follow-up with visits to these trainers to determine if additional information, training materials or training is needed.
3. **Identification of High Risk Situations for Agricultural Workers/Handlers.** High risk situations will be identified based on work activity, toxicity of pesticides, crops that require hand labor, the number of workers and history of compliance. Agricultural activities involving considerable worker exposure include harvesting pineapples, harvesting ornamental crops, detasseling seed corn, flower tip removal and bagging bananas. Sales reports for restricted use pesticides, crop statistics and the agricultural workforce survey will be used to identify high risk situations

4. **Information/Communication Regarding Pesticide Incidents.** The Pesticides Program will continue to work with the Department of Health's Hazard Evaluation and Emergency Response Program (HEER) concerning all pesticides illnesses. The Pesticides Program will initiate contact with health care providers in rural areas with information available to their patients on how to file pesticide-related complaints in response to occupational exposure to pesticides.

## B. Program Strategy

### 1. Worker Safety Program Priority Activities

- a. Violations involving PPE, training and posting appear to be the predominant areas of WPS non-compliance. The primary reasons for non-compliance include comfort issues, not being aware of the requirements and apathy. In a few cases PPE has not been provided. Enforcement actions (Warning Notices, Civil Penalties, etc.) will be used to schedule consultations. Additionally, EPA will evaluate investigation jackets from inspections documenting WPS violations.
- b. Develop and implement an outreach program for agricultural and commercial pesticide handling establishments the handle or use soil fumigants regarding the new risk mitigating labeling requirements for chloropicrin, dazomet, metam sodium/potassium and methyl bromide.
- c. Develop and implement outreach at rural health care providers, including providing information on filing pesticide-related complaints in response to occupational pesticide exposure incidences or illnesses.

## III. WORK PROGRAM

### A. Program Management

#### 1. Worker Safety Program Priority of Activities

	<u>FY2012</u>	<u>FY2013</u>
a. Consultative visit in response to enforcement actions.	<u>ongoing</u>	<u>ongoing</u>
b. Track sales of restricted use pesticides.		
Input/Coordinate RUP sales data.	<u>ongoing</u>	<u>ongoing</u>
c. Update the Neutral Inspection and the Worker Protection Inspection Priority Scheme.	<u>02/01/2012</u>	<u>02/01/2013</u>

	<u>FY2012</u>	<u>FY2013</u>
d. Worker Protection Inspections commitment from the Enforcement Workplan.		
1) Tier I WPS Inspections	<u>20</u>	<u>20</u>
2) Tier II WPS Inspections	<u>13</u>	<u>13</u>
2. Program Policies		
a. Update as necessary, outreach and training efforts.	<u>ongoing</u>	<u>ongoing</u>
<b>B. Other Activities</b>		
1. Consultative visits at agricultural establishments to assist the regulated community.	<u>25</u>	<u>25</u>
2. Outreach:		
a. Make information available to workers on WPS protections, filing complaints and reporting incidences.	<u>ongoing</u>	<u>ongoing</u>
b. Development, reproduction, and distribution of informational materials, newsletter articles, brochures, etc.	<u>ongoing, as needed</u>	<u>ongoing, as needed</u>
3. Continuing Education		
a. Approval of classes for certified applicators.	<u>ongoing, as requests are received</u>	<u>ongoing, as requests are received</u>
b. Participation in statewide education programs offered by organizations and grower groups.	<u>ongoing, as requested or needed</u>	<u>ongoing, as requested or needed</u>
4. Participation in the regional and national assessment of worker protection programs and workgroups.	<u>as offered</u>	<u>as offered</u>

**FY2012**

**FY2013**

### C. Procurement Under Assistance Agreements

- |  |                                    |                                    |
|--|------------------------------------|------------------------------------|
| 1. Update information on vendors' Minority Business Enterprise / Women's Business Enterprise (MBE/WBE) status. | <u>as new vendors are utilized</u> | <u>as new vendors are utilized</u> |
| 2. Complete and submit the MBE/WBE Utilization Report (5700-52A) to EPA.                                       | <u>10/31/2012</u>                  | <u>10/31/2013</u>                  |

### D. Reports

The State will submit reports corresponding to the project and budget period of this Cooperative Agreement. These reports must be submitted within 20 days after the end of each period of the Cooperative Agreement and will include:	<u>10/20/2012</u>	<u>10/20/2013</u>
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1. Completed Tier I and Tier II WPS inspection case files upon request.
2. WPS specific enforcement data on the revised EPA Form 5700-33H.

**APPLICATOR CERTIFICATION AND TRAINING WORKPLAN**

**I. INTRODUCTION**

The Hawaii Department of Agriculture (HDOA) is the lead State agency for the enforcement of the Hawaii Pesticides Law (Chapter 149A, Hawaii Revised Statutes) and the Hawaii Administrative Rules (Chapter 66, Title 4). The HDOA has the statutory authority to control the use and distribution of pesticides through product registration and classification, product licensing, dealer licensing, recordkeeping requirements, applicator certification, use inspections, sample collection, and enforcement actions.

Under the State Plan for Certification of Pesticide Applicators, the HDOA has the overall responsibility for:

- ◆ The development of the state certification plan;
- ◆ The establishment of certification categories;
- ◆ The establishment of certification procedures; and
- ◆ The enforcement of certification procedures.

**II. OBJECTIVES**

**A. Program Areas**

Educational Specialists of the Pesticides Program administer and grade examinations, periodically review examinations for revisions, participate in workshops and seminars such as the Hawaii Pest Control Association annual conference and University of Hawaii and industry sponsored seminars. The staff maintains the pertinent records of the certification program, log scores, deposit fees, issue certification, review requests for continuing education classes, monitor classes, and maintains attendance records of certified applicators

1. Certification/Renewal of Certification: The objective of the certification / renewal of certification program is to assure the competency of individuals applying restricted use pesticides.
  - a. **Written examinations** are used for all first-time applicants and renewal of certification for applicators without the necessary amount of continuing education credit-hours. Renewal by examination is also mandatory for applicators with certification expired for more than thirty (30) calendar days.

Applicants for commercial certification must score seventy percent (70%) or better on two written examinations, the core examination and the category specific examination. The core examination covers pertinent State and Federal laws, pesticide usage principles, safety, and toxicity. Category specific examinations cover the specialized knowledge areas of the categories.

Applicants for private certification must score seventy percent (70%) or better on the private applicator certification examination and each subcategory examination, if applicable. A separate core examination is not given.

Commercial and private applicants who fail to score seventy percent or better are eligible to retake the examination after fourteen (14) days.

- 1) **Scheduling** of certification examinations are generally administered every other Thursday morning at 8:30, except on State and Federal holidays, at island offices where the Pesticides Program maintains staff positions (Oahu & Hawaii). Reservations for examinations are taken by phone up to several weeks in advance, space permitting. On the island of Hawaii, the examinations are normally offered in the Hilo office and in the Kona office on an as-needed basis. Examinations of Kauai are serviced monthly by the Oahu office while exams for Maui are serviced monthly by the Hilo office. Molokai and Lanai are serviced on an as-needed basis by the Hilo or Oahu office. On Oahu the examinations are administered at the main office complex. Arrangements have to be made to use the boardroom or conference rooms in scheduling the location and capacity of the examinations.
  - 2) **Study material** for certification applicants are obtained from the University of Hawaii, by either ordering the study packets online, or viewing and printing the material directly on the website.
- b. **Renewal of certification by continuing education** is available to most applicators as an alternative to passing the written examination. Applicators certified in general agricultural pest control (Private 1) must attend at least twenty (20) credit-hours of continuing education training. Applicators certified in agricultural fumigation (Private 2), and/or agricultural chemigation (Private 3), who must also be concurrently certified in Private 1, must also attend five (5) credit-hours of training directly related to fumigation and/or chemigation. The minimum number of credit-hours required for commercial applicators varies, depending on the specific category.
- 1) Applicators certified in forest pest control (2), ornamental & turf pest control (3), right-of-way pest control (6), general pest control (7c), institutional pest control (7d) and demonstration, research & instructional pest control (10) must attend at least thirty (30) credit-hours of training.
  - 2) Applicators certified in agricultural plant pest control (category 1a), aerial pest control (4), aquatic pest control (5), fumigation pest control (7a) and vault fumigation pest control (7e) must attend at least twenty-five (25) credit-hours of training. For applicators certified in fumigation pest control and vault fumigation, at least five (5) hours of instruction must be specific to the category.
  - 3) Applicators certified in animal pest control (1b), termite pest control (7b), specialty categories (7f) and regulatory pest control (9) must attend at least twenty (20) credit-hours of training.

- 4) Applicators certified in public health pest control (8) must attend at least twenty-four (24) credit-hours of training.
  - 5) Applicators certified in chemigation pest control (11), who must also be concurrently certified in category 1a, 2, 3 or 10, must also attend five (5) hours of training directly related to the use of restricted use pesticides applied through irrigation systems.
- c. **The applicator training program** provides training to private and commercial applicators (certified and non-certified) which covers a variety of pesticide related topics including pesticide rules and regulations, pesticide safety, following label directions, as well developmental initiatives such as worker protection, endangered species protection and ground water protection. Program personnel also participate in continuing education programs offered by other organizations such as the Hawaii Pest Control Association, the University of Hawaii and pesticide dealers. Most of these training sessions provide certified applicators with continuing education credits which may be used towards "recertification". Recertification credits for each hour of applicable training are given for classes which have been reviewed and approved in advance by Educational specialists. Course content, applicability, and instructor qualifications are reviewed. Using the bar code on their certification card, each class attendee is scanned in and out or is required to sign-in and sign-out to ensure complete attendance. HDOA education staff will monitor sessions as needed to ensure that proper procedures are being followed. The HDOA maintains a record of the credits accumulated by each certified applicator.
- d. **Newsletters** – One of the unique features of the Hawaii Pesticides Program is the use of the Cooperative Extension Service's pesticide newsletter for recertification credits. By reviewing designated newsletter articles and passing an "open book" quiz, applicants can earn recertification credits.
2. **Consultative services** to pesticide applicators (certified and non-certified) as well pesticide distributors are conducted based on enforcement actions issued to the applicator or distributor by the HDOA, or upon request. These "non-enforcement" on-site visits are provided to assist users and distributors in complying with pesticide laws and regulations. The HDOA will commit to a minimum of 33 consultative visits on the condition that recordkeeping is not required. Problems identified during the consultative visits are summarized in general terms to maintain confidentiality and incorporated in C&T training and examinations. The credibility of the education program is largely based on the confidentiality of the results of consultative visits.
3. The Pesticides Program meets at least once a year with the Cooperative Extension Service to discuss issues related to pesticide applicator training and certification.

To augment the exchange for information between agencies, copies of enforcement actions taken against private applicators are provided to the Cooperative Extension



Service, actions involving possible illegal pesticide residues on crops are sent to the Hawaii Department of Health's Food and Drug Branch and actions against commercial applicators are made available to the and the Pest Control Board of the Department of Commerce and Consumer Affairs (DCCA).

4. The Pesticides Program will provide outreach to Restricted Use Pesticide (RUP) Dealers and affected fumigant users regarding the new soil fumigant labeling requirements. Private applicators using or supervising the use of restricted use soil fumigants must also be certified in Private Category 2, Agricultural Pest Control with Fumigants.

### III. WORK PROGRAM

#### A. Program Management

	<u>FY2012</u>	<u>FY2013</u>
1. State Plan.		
a. Review the State Plan and incorporate changes which have occurred since the Plan was last approved.	<u>09/30/2012</u>	<u>09/30/2013</u>
2. Certification Policy.		
a. Changes to certification procedures & policies.	<u>as generated</u>	<u>as generated</u>
b. Meet with CES to discuss issues related to pesticide applicator.	<u>07/31/2012</u>	<u>07/31/2013</u>
3. Certification/Renewal of certification.		
a. Update and revise certification examinations and study material to include the misuse of agricultural pesticides in an urban-structural setting.	<u>as needed</u>	<u>as needed</u>
b. Update certified applicator database on the Local Area Network.	<u>ongoing</u>	<u>ongoing</u>
4. Program Review and Assessment		
a. Participate in the ongoing Certification and Training Assessment Group (CTAG) activities.	<u>as offered</u>	<u>as offered</u>
b. Review and comment on questionnaires from EPA on training programs.	<u>1 month after receipt from EPA</u>	<u>1 month after receipt from EPA</u>

**B. Certification of Applicators**

	<u>FY2012</u>	<u>FY2013</u>
1. Certification.		
a. Private applicators	<u>40</u>	<u>40</u>
b. Commercial applicators	<u>90</u>	<u>90</u>
2. Renewal of certification.		
a. Private applicators	<u>20</u>	<u>20</u>
b. Commercial applicators	<u>60</u>	<u>60</u>
3. Training sessions to be monitored.		
a. Private applicators	<u>2</u>	<u>2</u>
b. Commercial applicators	<u>4</u>	<u>4</u>

**C. Other Certification Activities**

1. Continuing education sessions proposal reviews.	<u>30</u>	<u>30</u>
2. Presentations & training sessions to certified applicators.	<u>ongoing</u>	<u>ongoing</u>
3. Consultative visits with pesticide applicators.	<u>33</u>	<u>33</u>

**D. Procurement Under Assistance Agreements**

1. Update information on vendors' MBE/WBE status.	<u>as new vendors are utilized</u>	<u>as new vendors are utilized</u>
2. Complete and submit the MBE/WBE Utilization Report (EPA Form 5700-52A) to EPA.	<u>10/31/2012</u>	<u>10/31/2013</u>

**E. Annual Reports**

	<u>FY2012</u>	<u>FY2013</u>
1. The State is required under 40 CFR 171.1(d) to submit annual reports corresponding with the project and budget period of this Cooperative Agreement. The annual C&T accomplishment data and reporting information will be provided through the web-based Certification Plan and Reporting Database (CPARD).	<u>12/31/2012</u>	<u>12/31/2013</u>

This annual report of State Plan operation will include:

- a. The total number of applicators, private and commercial, by category, initially certified during the reporting period.
- b. The total number of applicators, private and commercial, by category, recertified during the reporting period.
- c. The total number of applicators, private and commercial, by category, holding certifications, at the end of the reporting period.
- d. Any changes in commercial applicator subcategories during the reporting period.
- e. A summary of any instances where the C&T program was used to address pesticide use problems identified through analysis of compliance data or enforcement trends, or enforcement activities related to use of restricted use pesticides during the reporting period.
- f. Proposed changes in plans and procedures for enforcement activities related to restricted use pesticides for the next reporting period.
- g. Any significant proposed changes in required standard of competency.
- h. Any other proposed changes from the State Plan that would significantly affect State certification program.
- i. Information on number of training sessions for both initial certification and recertification training programs that were monitored and/or participated during the reporting period.
- j. Information on any pesticide applicator training materials/programs that were revised or produced, including web-based training programs (where possible, samples of important or valuable resource materials should be submitted).
- k. Information on any significant consumer education programs/materials developed (where possible samples of important or valuable resource materials should be submitted).
- l. Information on any State Plan revisions that may require submission of a revised/updated State Plan to the EPA Regional Office.